

FREDERICK COUNTY BOARD OF APPEALS
STAFF REPORT FOR JANUARY 27, 2022 @ 7pm

Case Number: B-22-02 (B267641)

Applicants: Todd M.E. Adkins and Tom M. Adkins

Appeal: Requesting a variance of 11 feet on the left side and 7.6 feet on the right side of the proposed home location, from the required 50-foot side yard setbacks to allow placement of the newer and 20 ft. longer mobile home in accordance with Section 1-19-3.220 and Section 1-19-6.100 of the Frederick County Zoning Ordinance.

Location: Property identified as 6016 Mountindale Road, Thurmont MD, 21788. Tax Map 0039, Parcel 0078, Tax ID# 20-402075 , Size 10.5 Acres, Zoning (RC)

Planning Region: Thurmont

Zoning District: Resource Conservation

Comp. Plan Designation: Natural Resources

Applicable Ordinances: Sec. 1-19-3.220 Variances
Sec. 1-19-6.100 Design Requirements

Background:

The subject parcel is zoned Resource Conservation (RC) and is approximately 10.58 acres in size. Ordinance Section 1-19-6.100 Design Requirements, requires a side yard setback of at least 50 ft. The home as proposed would be approximately 39 feet and 42.6 feet respectively from the side yard property lines. This Application was originally approved in June of 2019, B-19-19. The Application expired and the Applicant is returning for approval of the same request.

Proposal:

Requesting a variance of 11 feet on the left side and 7.6 feet on the right side of the proposed home location, from the required 50-foot side yard setbacks to allow placement of the newer and 20 ft. longer mobile home in accordance with Section 1-19-3.220 and Section 1-19-6.100 of the Frederick County Zoning Ordinance.

General Criteria - Variance:

Under the provisions of Section 1-19-3.220(C) of the County Zoning Ordinance, the Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

(A) The Board of Appeals may authorize a variance in height, lot area, and yard regulations.

The Applicants state that the request is for a variance in yard regulations. In accordance with Zoning Ordinance Section 1-19-6.100, side yard setbacks must be 50 ft. in the RC Zone for a Mobile Home.

(B) An application for a variance shall be filed with the Board of Appeals only after refusal of zoning approval or an adverse determination has been issued by the Zoning Administrator.

The Applicants state that Adverse determination has been issued by the Zoning Administrator.

(C) The Board of Appeals shall not grant a variance unless and until a public hearing is held and all of the following criteria are met:

(1) First, the Board of Appeals shall find that the special conditions and circumstances exist which are unique to the land or structure involved and which are not applicable to other lands or structures in the same district.

The Applicant states that the property is unique due to the topography and shape of the lot, FEMA floodplain, existing woods, as well as the usable building envelope of the lot.

(2) Upon making this finding the Board of Appeals shall also find that the following criteria are met:

(a) That the special conditions and circumstances do not result from the actions of the applicant; and

The Applicants state that the special conditions and circumstances were created by the Resource Conservation zoning district setback requirements and have not resulted from any action of the Applicants.

(b) The literal interpretation of the provisions of this chapter would result in unreasonable hardship and deprive the applicant of rights commonly enjoyed by other properties in the same district under terms of this chapter; and

The Applicants state that the property does not have a reasonable building envelope to place the new home in, due to the 50 foot setback requirements for lots in the Resource Conservation zoning district, which creates an unreasonable hardship, and thereby deprive the Applicants from enjoying their property, a right commonly enjoyed by other properties in the same district. The existing home placed on the property in the 1960s also does not meet the setback requirements. Without this variance the Applicants are unable to build a new home for their family to live in and enjoy for years to come as the family has done so for over the 150 years. Neighboring properties consist of homes a mere few feet from the road, such as the neighbor to the left of the Applicant's property, the neighbor across the street, as well as nearly every other home in the community. Recently a neighboring home was approved for an addition to the existing home, the addition being to the left side of the home and no more than 15 feet from the road. The Applicant's property, while one of the larger properties in acreage in the area, consist of 90% wooded and steep sloped land 25% or more in grade. Where the cleared flat land of the property meets the 25% steep sloped wooded land lays a seasonal wetland appearing February through July which cannot be developed or disturbed, and posing significant development hurdles. Several approaches were considered by the Applicants to continue living on their property. Replacing the home is the most feasible and cost effective option. The cost to repair the existing home, which is very small in size compared to a modern 3 bedroom home, is more than double what it will cost the Applicants to replace the home outright. It is a cost the Applicants are unable to bear and support the family.

- (c) That granting the variance will not confer on the applicant any special privilege that is denied by this chapter to other lands or structures in the same district; and

The Applicants state that granting the variance will allow them to replace the home and does not grant them any special privilege denied to other lands or structures in the same district.

- (d) That the granting of the variance will be in harmony with the general purpose and intent of Chapter 1-19 of the Frederick County Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The Applicants state that granting of the variance will allow the property to be lived upon and enjoyed in harmony with the

surrounding neighbors whose homes also do not meet the 50foot setback requirements.

(D) In granting the variance, the Board of Appeals may prescribe appropriate conditions and safeguards in conformity with this chapter. Violation of such conditions and safeguards, when made part of the terms under which the variance is granted, is a violation of this chapter.

The Applicants state that all prescribed appropriate conditions and safeguards will be followed.

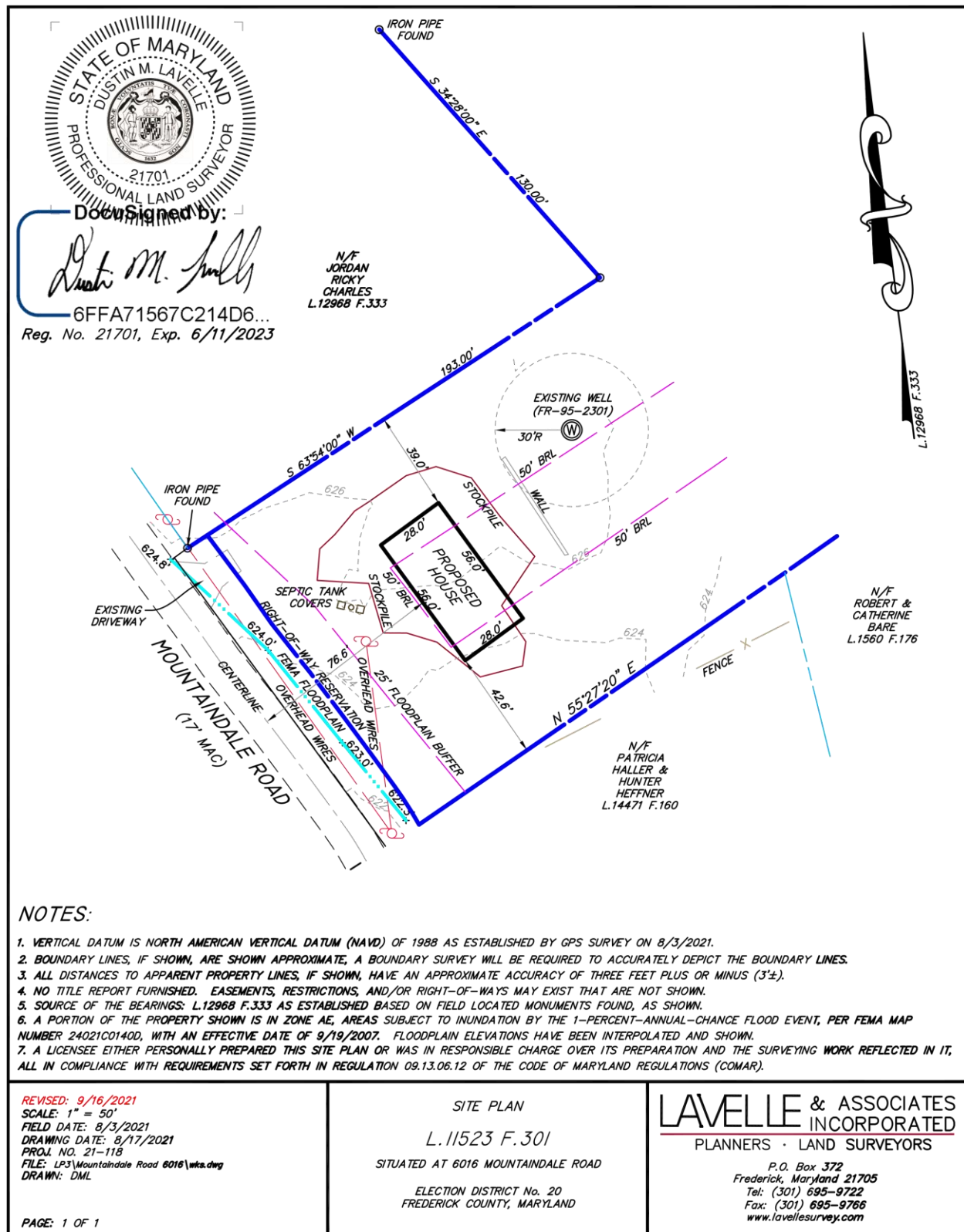
(E) Under no circumstance shall the Board of Appeals grant a variance to allow a use not permissible under terms of Chapter 1-19, in the zone involved, or any use expressly or by implication prohibited by the terms of this chapter in said zone.

The Applicant states that the property has always been used for residential use and will continue to be used for residential use which is permissible under 1-195.210 and 1-19-6.100.

Actions Needed:

Staff requests that the Board review the general criteria for a variance under Section 119-3.220 (Variances) and Section 1-19-6.100 Design Requirements of the Frederick County Code and render a decision on the Applicant's request.

Attachment



Maps

